

AMERICAN ARBITRATION ASSOCIATION

SOFCO ERECTORS, INC.

“Employer”

And

NOTICE OF INITIATION OF  
ARBITRATION

OHIO OPERATING ENGINEERS  
PENSION FUND

“Fund”

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Pursuant to ERISA, 29 U.S.C. §1401, and PBGC Regulations, Part 4221, and the American Arbitration Association’s Multiemployer Pension Plan Rules for Withdrawal Liability Disputes, Sofco Erectors, Inc. (the “Employer”) gives notice to the Ohio Operating Engineers Pension Fund (the “Fund”) that it disputes the Fund’s alleged determinations of Partial and Complete Withdrawal Liability and Demand for Payment to Employer dated August 31, 2017, and that it is initiating arbitration of this dispute.

I. Background

The Employer terminated its collective bargaining agreement and relationship with the International Union of Operating Engineers, Local 18 (“Local 18”) effective April 30, 2017. In a letter dated August 31, 2017 (attached as Exhibit A), the Fund alleged that the Employer’s termination of its relationship with Local 18 resulted in liability for complete withdrawal, and assessed complete withdrawal liability for the Plan year ending July 31, 2017, in the amount of \$368,315 (\$605,591 less credit for partial withdrawal assessments). In the same letter, the Fund also alleged that fluctuations in the Employer’s Local 18 bargaining unit hours in previous plan

years resulted in liability for partial withdrawals, and assessed partial withdrawal liability for the Plan year ending July 31, 2011 in the amount of \$344,627, partial withdrawal liability for the Plan year ending July 31, 2012 in the amount of \$111,358, and partial withdrawal liability for the Plan year ending July 31, 2013 in the amount of \$0 (after crediting of prior year partial withdrawal assessments).

On November 10, 2017, the Employer submitted a Request for Review to the Fund of its assessments in their entirety (attached as Exhibit B). In its Request for Review, the Employer explained that the Fund's alleged determinations of liability for complete and partial withdrawal were all contrary to the construction industry exemption provisions of ERISA, 29 U.S.C. §1383(b)(1) and 29 U.S.C. §1388(d)(1).

On November 29, 2017, the Employer submitted a Supplemental Request for Review to the Fund (attached as Exhibit C). In its Supplemental Request for Review, the Employer submitted grounds for reducing the assessments if they are not overturned in their entirety.

The Fund has not responded to either the Employer's Request for Review or its Supplemental Request for Review.

The Employer has paid and will continue to pay the Fund's assessments in quarterly installments until it is awarded relief from these unlawful assessments.

## II. Issues for Arbitration

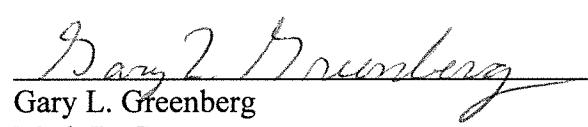
The issues for arbitration include all of those raised by the Employer in its Request for Review dated November 10, 2017, and Supplemental Request for Review dated November 29, 2017, and any other relevant issues that come to light during the pre-hearing discovery process.

## III. Demand for Relief

The Arbitrator should award the following relief to the Employer:

- a. Overturn the Fund's alleged determinations of Partial and Complete Withdrawal Liability dated August 31, 2017 in their entirety;
- b. Require the Fund to withdraw the Demand for Payment;
- c. Require the Fund to refund all of the withdrawal liability assessment payments made by the Employer to the Fund, with interest; and
- d. Award the Employer its costs and attorneys' fees, and any other relief to which it may be entitled.

Respectfully submitted,

  
\_\_\_\_\_  
Gary L. Greenberg  
Mark B. Gerano  
Jackson Lewis P.C.  
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Cincinnati, OH 45202  
(513) 873-2103  
[Gary.Greenberg@jacksonlewis.com](mailto:Gary.Greenberg@jacksonlewis.com)  
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Attorneys for Sofco Erectors, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 2<sup>nd</sup> day of April, 2018, a true and accurate copy of the foregoing was emailed to Jan Holdinski at HoldinskiJ@adr.org and overnighted by UPS with check for \$6,200 for Initial Filing Fee to the American Arbitration Association office at 39555 Orchard Hill Place, Suite 140, Novi, MI 48375, and a copy was served upon the following via email and regular U.S. Mail:

Daniel J. Clark  
Vorys, Sater, Seymour and Pease LLP  
52 East Gay Street  
P.O. Box 1008  
Columbus, OH 43216-1008  
[djclark@vorys.com](mailto:djclark@vorys.com)

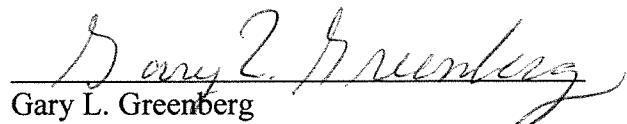
and

Allen S. Kinzer  
Vorys, Sater, Seymour and Pease LLP  
52 East Gay Street  
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Attorneys for the Ohio Operating Engineers Pension Fund

and

Richard E. Dalton,  
Business Manager  
International Union of Operating Engineers, Local 18  
3515 Prospect Avenue  
Cleveland, OH 44115  
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\_\_\_\_\_  
Gary L. Greenberg



# OHIO OPERATING ENGINEERS FRINGE BENEFIT PROGRAMS

1180 Dublin Road

PO Box 12009

Columbus OH 43212-0009

614.488.0708

Carol A. Wilson  
Administrator

August 31, 2017

**MAILED VIA REGULAR & CERTIFIED U.S. MAIL**

SOFCO ERECTORS INC  
10360 WAYNE AVE  
CINCINNATI OH 45215-1129

**Re: Partial and Complete Withdrawal Liability  
Demand for Payment**

To Whom It May Concern:

The Ohio Operating Engineers Pension Plan ('Plan') was recently informed that the collective bargaining agreement between the Ohio Operating Engineers Local 18 and Sofco Erectors, Inc. (hereinafter referred to as "Sofco") was terminated. After receiving this notice, the Plan performed a calculation of Sofco's complete withdrawal liability. This calculation was prepared by the Plan's actuary, and is based upon a complete withdrawal from the Pension Plan during the Plan year ending July 31, 2017. According to this calculation, Sofco's complete withdrawal liability is **\$368,315**. (Please see attached copy of the actuary's August 29, 2017 letter and calculation).

Additionally, the Actuary also noticed more than a 70% reduction in contribution hours reported by Sofco for the three year period of 2011-2013. This decline in hours constitutes a partial withdrawal by Sofco from the collective bargaining agreement during this period. As a result, the Plan's actuary also performed partial withdrawal liability calculations. (Please see aforementioned letter and calculation). Although there is no partial withdrawal liability for the Plan year ending July 31, 2013, these calculations revealed the following:

- For the Plan year ending July 31, 2011, partial withdrawal liability in the amount of \$344,627;
- For the Plan year ending July 31, 2012, partial withdrawal liability in the amount of \$111,358.

Based on all calculations performed by the Plan's actuary, the Plan hereby requests and demands that Sofco pays the following amounts:

- Complete withdrawal liability for the Plan year ending July 31, 2017 in the amount of \$368,315 which can be paid in 40 quarterly payments of \$12,320 and a final payment of \$2,721;

**EXHIBIT**

tabbed

**A**

- Partial withdrawal liability for the Plan year ending July 31, 2011 in the amount of \$344,627 which can be paid in 19 quarterly payments of \$20,239 and a final payment of \$8,327;
- Partial withdrawal liability for the Plan year ending July 31, 2012 in the amount of \$111,358 which can be paid in six quarterly payments of \$17,294 and a final payment of \$10,652.

**The Plan also requests and demands that Sofco remits its payments (with a separate check for each calculation) under these payment plans by no later than October 30, 2017. A quarterly or lump sum payment should be made payable to: The Ohio Operating Engineering Pension Plan, Attn: Samantha Polsinelli, 1180 Dublin Rd., P.O. Box 12009, Columbus, Ohio 43212.**

Sincerely,



Bryan C. Barch, Esq.

In-House Counsel



101 North Wacker Drive Suite 500 Chicago, IL 60606-1724  
T 312.984.8619 [www.segalco.com](http://www.segalco.com)

Daniel V. Ciner, MAAA, EA  
Senior Vice President and Actuary  
[dciner@segalco.com](mailto:dciner@segalco.com)

August 29, 2017

*VIA E-MAIL*

Ms. Samantha Polsinelli  
Ohio Operating Engineers Fringe Benefit Programs  
1180 Dublin Road  
Columbus, Ohio 43212

Re: **Ohio Operating Engineers Pension Fund – Partial and Complete Withdrawal Liability Calculations for Sofco Erectors, Inc.**

Dear Ms. Polsinelli:

As requested, we have updated the withdrawal liability calculation for Sofco Erectors, Inc. assuming three partial withdrawals in the Plan years ended July 31 of 2011, 2012, and 2013, respectively, and a complete withdrawal in the Plan year ended July 31, 2017. As described below, we look to Fund Counsel regarding interpretations as to assessment of withdrawal liability for construction industry employers.

- For the Plan year ended July 31, 2011, the calculated amount of partial withdrawal liability is \$344,627, which can be paid in 19 quarterly payments of \$20,239 and a final payment of \$8,327.
- For the Plan year ended July 31, 2012, the calculated amount of partial withdrawal liability is \$111,358 (after application of the credit for the prior partial withdrawal as of July 31, 2011), which can be paid in six quarterly payments of \$17,294 and a final payment of \$10,652.
- For the Plan year ended July 31, 2013, the calculated amount of partial withdrawal liability is \$0 (after application of the credit for the prior partial withdrawals as of July 31, 2011 and 2012).
- For the Plan year ended July 31, 2017, the calculated amount of complete withdrawal liability is \$368,315 (after application of the credit for the prior partial withdrawals as of July 31, 2011, 2012, and 2013), which can be paid in 40 quarterly payments of \$12,320 and a final payment of \$2,721.

The above withdrawal liability calculations are based on the asset values and liabilities stated in the July 31, 2008, 2009, 2010, and 2016 withdrawal liability reports, respectively. In addition, they are based on the contribution information provided in your e-mails dated May 1, 2017 and May 9, 2017, including maximum hourly contribution rates of \$4.00, \$4.50, and \$6.00 for the 10-year periods ended July 31, 2009, 2010, and 2017, respectively.

Under Section 4205(b)(1) of ERISA, a partial withdrawal occurs when contribution hours in each of three consecutive years (the “three-year testing period”) are at least 70% less than the average of the two highest years of contribution hours during the five years preceding the three-year testing period. Based on the information you provided us, Sofco Erectors, Inc. incurred three consecutive 70% declines for the three-year testing periods that ended in 2011, 2012, and 2013.

Ms. Samantha Polsinelli  
Ohio Operating Engineers Fringe Benefit Programs  
August 29, 2017  
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Under Section 4208(d)(1) of ERISA, for construction industry employers in construction industry plans, partial withdrawal liability is assessable when work continues for an insubstantial portion of the employer's work in the jurisdiction of the collective bargaining agreement. The calculations included in this letter assume that this employer will be assessed partial withdrawal liability for each partial withdrawal. We defer to Fund Counsel's interpretation as to whether partial withdrawal liability is assessable to this employer.

Under Section 4206 of ERISA, partial withdrawal liability based on a 70% decline in contribution hours is calculated as a fraction of the amount that would be payable if there were a complete withdrawal by this employer on the last day of the first Plan year in the three-year testing period (i.e., in 2009, 2010, and 2011 for the 2011, 2012, and 2013 partial withdrawals, respectively). This fraction equals the ratio of the employer's contribution hours for the Plan year following the end of the three-year testing period to the average contribution hours during the five years preceding the first year of the three-year testing period.

Under Section 4206 of ERISA, any withdrawal liability (either complete or partial) for an employer is reduced by the amount of any partial withdrawal liability of the employer with respect to the Plan for a previous year. We have determined the amount of credit for the prior partial withdrawals, and have offset the partial withdrawal liability for the Plan years ended July 31, 2012 and July 31, 2013, as well as the complete withdrawal liability as of July 31, 2017, by the respective credit amounts.

We have enclosed exhibits showing the details of our calculations as follows:

For the July 31, 2011 partial withdrawal:

- Exhibit A – Determination of Partial Withdrawal
- Exhibit B – Calculation of the Allocable Amount of Unfunded Vested Benefits
- Exhibit C – Determination of Withdrawal Liability
- Exhibit D – Determination of Payment Schedule under ERISA Section 4219
- Exhibit E – Basis for Determining Withdrawal Liability

For the July 31, 2012 partial withdrawal:

- Exhibit F – Determination of Partial Withdrawal
- Exhibit G – Calculation of the Allocable Amount of Unfunded Vested Benefits
- Exhibit H – Development of Credit for Prior (July 31, 2011) Partial Withdrawal
- Exhibit I – Determination of Withdrawal Liability
- Exhibit J – Determination of Payment Schedule under ERISA Section 4219
- Exhibit K – Basis for Determining Withdrawal Liability

For the July 31, 2013 partial withdrawal:

- Exhibit L – Determination of Partial Withdrawal
- Exhibit M – Calculation of the Allocable Amount of Unfunded Vested Benefits
- Exhibit N – Development of Credit for Prior (July 31, 2011 and July 31, 2012) Partial Withdrawals
- Exhibit O – Determination of Withdrawal Liability
- Exhibit P – Basis for Determining Withdrawal Liability

Ms. Samantha Polsinelli  
Ohio Operating Engineers Fringe Benefit Programs  
August 29, 2017  
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For the July 31, 2017 complete withdrawal:

- Exhibit Q – Calculation of the Allocable Amount of Unfunded Vested Benefits
- Exhibit R – Development of Credit for Prior (July 31, 2011, 2012, and 2013) Partial Withdrawals
- Exhibit S – Determination of Withdrawal Liability
- Exhibit T – Determination of Payment Schedule under ERISA Section 4219
- Exhibit U – Basis for Determining Withdrawal Liability

As with all withdrawals, the assessment of withdrawal liability is subject to Fund Counsel review. Please let us know if you have any questions.

Sincerely,



Daniel V. Ciner  
Enclosures

cc: Ms. Carol Wilson (w/enclosures)  
Ms. Megan Kelly (w/enclosures)

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EXHIBIT A

Ohio Operating Engineers Pension Fund

DETERMINATION OF A PARTIAL WITHDRAWAL AS OF JULY 31, 2011

Employer Name: **Sofco Erectors, Inc.**

End of Three-Year Testing Cycle: **07/31/2011**

Plan Year Ended 7/31	Contribution Base Units (Hours)	2-Year Average of Highest CBU	Ratio of Hours to Maximum Average CBU
2011	1,123.00	12,253.50	9%
2010	440.00	12,253.50	4%
2009	<u>1,607.50</u>	<u>12,253.50</u>	<u>13%</u>
2008	11,978.00		
2007	11,053.50		
2006	12,529.00		
2005	11,807.00		
2004	10,862.00		

*A partial withdrawal has occurred as of July 31, 2011.*

## EXHIBIT B

**Ohio Operating Engineers Pension Fund**  
**CALCULATION OF ALLOCABLE AMOUNT OF UNFUNDED VESTED BENEFITS**  
**For a Withdrawal in the Plan Year Ended July 31, 2009**

Employer Name:	Unamortized Balance of Withdrawal Liability Pools		Contributions During 5-Year Period Ended Prior to Date Pool Established		Liability Allocated: (5) divided by (4), times the sum of (2) and (3)
	Year Ended <sup>1</sup>	July 31	Basic <sup>2</sup>	Reallocated <sup>3</sup>	
	(1)	(2)	(3)	(4)	(5)
2003	\$195,618,368	\$0		\$178,834,875	\$291,244
2004	(21,738,368)	0		183,435,933	275,279
2005	103,632,017	0		184,525,945	211,259
2006	(136,835,103)	0		187,236,038	189,279
2007	31,859,110	0		192,258,544	180,029
2008	138,233,538	0		202,969,173	187,255
Allocable Amount of Unfunded Vested Benefits for Complete Withdrawal (Sum of Column 6)					\$423,637

<sup>1</sup> Years not shown have no withdrawal liability components.

<sup>2</sup> Original value of the changes in the unfunded vested benefits, written down 5% per year.

<sup>3</sup> Original value of non-assessable or non-collectible withdrawal liability, written down 5% per year.

<sup>4</sup> Total fund contributions for the Plan year listed and the four preceding years, excluding contributions from withdrawn significant employers who withdrew on or before the date the pool was established.

<sup>5</sup> Obligated employer contributions for the Plan year listed and the four preceding years, including contributions owed but not yet paid.

## EXHIBIT C

## Ohio Operating Engineers Pension Fund

## DETERMINATION OF WITHDRAWAL LIABILITY

For a Partial Withdrawal in the Plan Year Ending July 31, 2011

Employer Name: Sofco Erectors, Inc.

A.	Preliminary Allocable Amount of Unfunded Vested Benefits	\$423,637
B.	De Minimis Reduction Under ERISA Section 4209	
(1)	Lesser of 0.75% of Unfunded Vested Benefits or \$50,000	\$50,000
(2)	Reduction: $\$100,000 + (B)(1) - (A)$ but not greater than (B)(1) nor less than zero	\$0
C.	Net Allocable Amount of Unfunded Vested Benefits for Complete Withdrawal	\$423,637
D.	Total Contribution Hours in the Five-Year Period 08/01/2003 – 07/31/2008	58,229.50
E.	Average Contribution Hours in Five-Year Period $[(D) \div 5]$	11,645.90
F.	Contribution Hours 08/01/2011 - 07/31/2012	2,172.00
G.	Partial Withdrawal Liability Factor: $1 - [(F) \div (E)]$	81.349660%
H.	Withdrawal Liability: (C) x (G)	\$344,627

## EXHIBIT D

Ohio Operating Engineers Pension Fund  
 DETERMINATION OF PAYMENT SCHEDULE UNDER ERISA SECTION 4219  
 For a Partial Withdrawal in the Plan Year Ended July 31, 2011

Employer Name: Sofco Erectors, Inc.

(1) Employer Base Units (hours) history:

Year Ended	<u>July 31</u>	<u>Hours</u>	<u>3-Year Average Hours</u>
1999	18,877.50		N/A
2000	35,670.50		N/A
2001	20,085.50		24,877.83
2002	15,351.50		23,702.50
2003	12,313.50		15,916.83
2004	10,862.00		12,842.33
2005	11,807.00		11,660.83
2006	12,529.00		11,732.67
2007	11,053.50		11,796.50
2008	11,978.00		11,853.50

(2)	Average Base Units for highest 3 consecutive years during 10 years ended July 31, 2008	24,877.83
(3)	Highest contribution rate during 10 years ending July 31, 2009	\$4.00
(4)	Partial withdrawal liability fraction (see Exhibit C, Item G)	81.349660%
(5)	Annual payment = (2) x (3) x (4) [rounded up to the nearest \$4]	\$80,956
(6)	Quarterly payment = (5) / 4	\$20,239
(7)	Number of Full Years of Payment	4
(8)	Remaining Balance After 4 Years	\$69,044
(9)	Number of Full Quarterly Payments in Year 5:	3
(10)	Amount of Remaining Payment = (8) - (6) x (9)	\$8,327

EXHIBIT E

Ohio Operating Engineers Pension Fund

BASIS FOR DETERMINING WITHDRAWAL LIABILITY

For a Partial Withdrawal in the Plan Year Ending July 31, 2011

1. Withdrawal liability computed using the "Presumptive Method" as described in ERISA Section 4211(b).
2. Census data collected as of July 31, 2008.
3. All assumptions per the July 31, 2008 withdrawal liability report.
4. Market value of assets based on audited financial statements as of July 31, 2008.
5. Total plan contributions are as reported in the audited financial statements.
6. Historical contributions of previously withdrawn employers and employer for which this calculation was performed are as reported by the Fund Office.
7. We are aware of no other participating employers belonging to the same controlled group as the employer for which this calculation was completed.
8. We are unaware of any application of ERISA Section 4225 on this assessment and defer to the Fund Administrator and Legal Counsel to determine whether it applies.

## EXHIBIT F

## Ohio Operating Engineers Pension Fund

## DETERMINATION OF A PARTIAL WITHDRAWAL AS OF JULY 31, 2012

Employer Name: **Sofco Erectors, Inc.**End of Three-Year Testing Cycle: **07/31/2012**

Plan Year Ended 7/31	Contribution Base Units (Hours)	2-Year Average of Highest CBUs	Ratio of Hours to Maximum Average CBU
2012	2,172.00	12,253.50	18%
2011	1,123.00	12,253.50	9%
2010	440.00	12,253.50	4%
2009	1,607.50		
2008	11,978.00		
2007	11,053.50		
2006	12,529.00		
2005	11,807.00		

*A partial withdrawal has occurred as of July 31, 2012.*

## EXHIBIT G

Ohio Operating Engineers Pension Fund  
**CALCULATION OF ALLOCABLE AMOUNT OF UNFUNDED VESTED BENEFITS**  
 For a Withdrawal in the Plan Year Ended July 31, 2010

Employer Name: Sofco Erectors, Inc.

Year Ended <sup>1</sup>	Unamortized Balance of Withdrawal Liability Pools		Contributions During 5-Year Period Ended Prior to Date Pool Established		Liability Allocated: (5) divided by (4), times the sum of (2) and (3)
	July 31	Basic <sup>2</sup>	Reallocated <sup>3</sup>	Total Plan	Obligated Employer
(1)	(2)	(3)	(4)	(5)	(6)
2003	\$182,577,144	\$0	\$178,834,875	\$291,244	\$297,339
2004	(20,379,720)	0	183,435,933	275,279	(30,583)
2005	97,536,016	0	184,525,945	211,259	111,666
2006	(129,233,153)	0	187,236,038	189,279	(130,643)
2007	30,182,315	0	192,258,544	180,029	28,262
2008	131,321,861	0	202,969,173	187,255	121,155
2009	357,008,602	0	210,884,752	161,099	<u>272,726</u>
Allocable Amount of Unfunded Vested Benefits for Complete Withdrawal (Sum of Column 6)					\$669,922

<sup>1</sup> Years not shown have no withdrawal liability components.

<sup>2</sup> Original value of the changes in the unfunded vested benefits, written down 5% per year.

<sup>3</sup> Original value of non-assessable or non-collectible withdrawal liability, written down 5% per year.

<sup>4</sup> Total fund contributions for the Plan year listed and the four preceding years, excluding contributions from withdrawn significant employers who withdrew on or before the date the pool was established.

<sup>5</sup> Obligated employer contributions for the Plan year listed and the four preceding years, including contributions owed but not yet paid.

## EXHIBIT H

Ohio Operating Engineers Pension Fund  
**DEVELOPMENT OF CREDIT FOR PRIOR PARTIAL WITHDRAWAL**  
 For a Partial Withdrawal in the Plan Year Ended July 31, 2012

A: Sum of Employer's Share of Unamortized Pools for years prior to the partial withdrawal.....	\$ 397,196
B: Fraction determined under Section 4206(a)(2) of ERISA for the prior partial withdrawal.....	0.813497
C: Amount of withdrawal liability assessed to employer for the prior partial withdrawal.....	\$ 344,627
D: Amount of unfunded vested liability allocable to employer as if it had completely withdrawn as of the date of the prior partial withdrawal.....	\$ 423,637
E: Credit for prior partial withdrawal [ A x B x C / (D x B) ].....	\$ 323,117

*Note: Per ERISA Section 4206.10, the plan year in which the partial withdrawal occurred for purposes of the above calculations is deemed to be the first year of the 3-year testing period.*

## EXHIBIT I

## Ohio Operating Engineers Pension Fund

## DETERMINATION OF WITHDRAWAL LIABILITY

For a Partial Withdrawal in the Plan Year Ending July 31, 2012

Employer Name: Sofco Erectors, Inc.

A.	Preliminary Allocable Amount of Unfunded Vested Benefits	\$669,922
B.	De Minimis Reduction Under ERISA Section 4209	
(1)	Lesser of 0.75% of Unfunded Vested Benefits or \$50,000	\$50,000
(2)	Reduction: $\$100,000 + (B)(1) - (A)$ but not greater than (B)(1) nor less than zero	\$0
C.	Net Allocable Amount of Unfunded Vested Benefits for Complete Withdrawal	\$669,922
D.	Total Contribution Hours in the Five-Year Period 08/01/2004 – 07/31/2009	48,975.00
E.	Average Contribution Hours in Five-Year Period $[(D) \div 5]$	9,795.00
F.	Contribution Hours 08/1/2012 - 07/31/2013	3,442.50
G.	Partial Withdrawal Liability Factor: $1 - [(F) \div (E)]$	64.854518%
H.	Net Allocable Share of Unfunded Vested Benefits for Partial Withdrawal: (C) x (G)	\$ 434,475
I.	Credit for Prior (July 31, 2011) Partial Withdrawal	\$323,117
J.	Withdrawal Liability: (H) – (I), but not less than zero	\$111,358

## EXHIBIT J

Ohio Operating Engineers Pension Fund  
 DETERMINATION OF PAYMENT SCHEDULE UNDER ERISA SECTION 4219  
 For a Partial Withdrawal in the Plan Year Ended July 31, 2012

Employer Name: Sofco Erectors, Inc.

(1) Employer Base Units (hours) history:

Year Ended	<u>July 31</u>	<u>Hours</u>	<u>3-Year Average Hours</u>
2000	35,670.50		N/A
2001	20,085.50		N/A
2002	15,351.50		23,702.50
2003	12,313.50		15,916.83
2004	10,862.00		12,842.33
2005	11,807.00		11,660.83
2006	12,529.00		11,732.67
2007	11,053.50		11,796.50
2008	11,978.00		11,853.50
2009	1,607.50		8,213.00

(2) Average Base Units for highest 3 consecutive years during 10 years ended July 31, 2009	23,702.50
(3) Highest contribution rate during 10 years ending July 31, 2010	\$4.50
(4) Partial withdrawal liability fraction (see Exhibit I, Item G)	64.854518%
(5) Annual payment = (2) x (3) x (4) [rounded up to the nearest \$4]	\$69,176
(6) Quarterly payment = (5) / 4	\$17,294
(7) Number of Full Years of Payment	1
(8) Remaining Balance After 1 Year	\$45,240
(9) Number of Full Quarterly Payments in Year 2:	2
(10) Amount of Remaining Payment = (8) - (6) x (9)	\$10,652

EXHIBIT K

Ohio Operating Engineers Pension Fund

**BASIS FOR DETERMINING WITHDRAWAL LIABILITY**

For a Partial Withdrawal in the Plan Year Ending July 31, 2012

1. Withdrawal liability computed using the "Presumptive Method" as described in ERISA Section 4211(b).
2. Census data collected as of July 31, 2009.
3. All assumptions per the July 31, 2009 withdrawal liability report.
4. Market value of assets based on audited financial statements as of July 31, 2009.
5. Total plan contributions are as reported in the audited financial statements.
6. Historical contributions of previously withdrawn employers and employer for which this calculation was performed are as reported by the Fund Office.
7. We are aware of no other participating employers belonging to the same controlled group as the employer for which this calculation was completed.
8. We are unaware of any applicability of ERISA Section 4225 on this assessment and defer to the Fund Administrator and Legal Counsel to determine whether it applies.

EXHIBIT L

Ohio Operating Engineers Pension Fund

DETERMINATION OF A PARTIAL WITHDRAWAL AS OF JULY 31, 2013

Employer Name: **Sofco Erectors, Inc.**

End of Three-Year Testing Cycle: **07/31/2013**

Plan Year Ended 7/31	Contribution Base Units (Hours)	2-Year Average of Highest CBUs	Ratio of Hours to Maximum Average CBU
2013	3,442.50	12,253.50	28%
2012	2,172.00	12,253.50	18%
2011	1,123.00	12,253.50	9%
2010	440.00		
2009	1,607.50		
2008	11,978.00		
2007	11,053.50		
2006	12,529.00		

*A partial withdrawal has occurred as of July 31, 2013.*

## EXHIBIT M

**Ohio Operating Engineers Pension Fund**  
**CALCULATION OF ALLOCABLE AMOUNT OF UNFUNDED VESTED BENEFITS**  
**For a Withdrawal in the Plan Year Ended July 31, 2011**

Year Ended <sup>1</sup> <u>July 31</u>	Unamortized Balance of Withdrawal Liability Pools		Contributions During 5-Year Period Ended Prior to Date Pool Established		Liability Allocated: (5) divided by (4), times the sum of (2) and (3) <u>(6)</u>
	<u>Basic<sup>2</sup></u> <u>(1)</u>	<u>Reallocated<sup>3</sup></u> <u>(2)</u>	<u>Total Plan Contributions<sup>4</sup></u> <u>(4)</u>	<u>Obligated Employer Contributions<sup>5</sup></u> <u>(5)</u>	
2003	\$169,535,919	\$0	\$178,834,875	\$291,244	\$276,100
2004	(19,021,072)	0	183,435,933	275,279	(28,545)
2005	91,440,015	0	184,525,945	211,259	104,687
2006	(121,631,202)	0	187,236,038	189,279	(122,958)
2007	28,505,519	0	192,258,544	180,029	26,692
2008	124,410,184	0	202,969,173	187,255	114,778
2009	339,158,172	0	210,884,752	161,099	259,090
2010	42,238,100	0	218,622,244	127,590	<u>24,651</u>
Allocable Amount of Unfunded Vested Benefits for Complete Withdrawal (Sum of Column 6)					\$654,495

<sup>1</sup> Years not shown have no withdrawal liability components.

<sup>2</sup> Original value of the changes in the unfunded vested benefits, written down 5% per year.

<sup>3</sup> Original value of non-assessable or non-collectible withdrawal liability, written down 5% per year.

<sup>4</sup> Total fund contributions for the Plan year listed and the four preceding years, excluding contributions from withdrawn significant employers who withdrew on or before the date the pool was established.

<sup>5</sup> Obligated employer contributions for the Plan year listed and the four preceding years, including contributions owed but not yet paid.

## EXHIBIT N

Ohio Operating Engineers Pension Fund  
 DEVELOPMENT OF CREDIT FOR PRIOR PARTIAL WITHDRAWALS  
 For a Partial Withdrawal in the Plan Year Ended July 31, 2013

Credit for Prior Partial Withdrawal in Plan Year Ended July 31, 2011

A: Sum of Employer's Share of Unamortized Pools for years prior to the partial withdrawal.....	\$ 370,754
B: Fraction determined under Section 4206(a)(2) of ERISA for the prior partial withdrawal.....	0.813497
C: Amount of withdrawal liability assessed to employer for the prior partial withdrawal.....	\$ 344,627
D: Amount of unfunded vested liability allocable to employer as if it had completely withdrawn as of the date of the prior partial withdrawal.....	\$ 423,637
E: Credit for prior partial withdrawal in Plan year ended July 31, 2011 [ A x B x C / (D x B)].....	<u>\$ 301,607</u>

Credit for Prior Partial Withdrawal in Plan Year Ended July 31, 2012

F: Sum of Employer's Share of Unamortized Pools for years prior to the partial withdrawal.....	\$ 629,844
G: Fraction determined under Section 4206(a)(2) of ERISA for the prior partial withdrawal.....	0.648545
H: Amount of withdrawal liability assessed to employer for the prior partial withdrawal.....	\$ 111,358
I: Amount of unfunded vested liability allocable to employer as if it had completely withdrawn as of the date of the prior partial withdrawal.....	\$ 669,922
J: Credit for prior partial withdrawal in Plan year ended July 31, 2012 [ F x G x H / (I x G)].....	<u>\$ 104,696</u>
K. Total credit for prior partial withdrawals [ E + J]	<u>\$ 406,303</u>

*Note: Per ERISA Section 4206.10, the plan year in which the partial withdrawal occurred for purposes of the above calculations is deemed to be the first year of the 3-year testing period.*

## EXHIBIT O

## Ohio Operating Engineers Pension Fund

## DETERMINATION OF WITHDRAWAL LIABILITY

For a Partial Withdrawal in the Plan Year Ending July 31, 2013

Employer Name: Sosco Erectors, Inc.

A.	Preliminary Allocable Amount of Unfunded Vested Benefits	\$654,495
B.	De Minimis Reduction Under ERISA Section 4209	
(1)	Lesser of 0.75% of Unfunded Vested Benefits or \$50,000	\$50,000
(2)	Reduction: \$100,000 + (B)(1) – (A) but not greater than (B)(1) nor less than zero	\$0
C.	Net Allocable Amount of Unfunded Vested Benefits for Complete Withdrawal	\$654,495
D.	Total Contribution Hours in the Five-Year Period 08/01/2005 – 07/31/2010	37,608.00
E.	Average Contribution Hours in Five-Year Period [(D) ÷ 5]	7,521.60
F.	Contribution Hours 08/1/2013 - 07/31/2014	3,834.00
G.	Partial Withdrawal Liability Factor: 1 – [(F) ÷ (E)]	49.026803%
H.	Net Allocable Share of Unfunded Vested Benefits for Partial Withdrawal: (C) x (G)	\$320,878
I.	Credit for Prior (July 31, 2011 and 2012) Partial Withdrawals	\$406,303
J.	Withdrawal Liability: (H) – (I), but not less than zero	\$0

EXHIBIT P

Ohio Operating Engineers Pension Fund

BASIS FOR DETERMINING WITHDRAWAL LIABILITY

For a Partial Withdrawal in the Plan Year Ending July 31, 2013

1. Withdrawal liability computed using the "Presumptive Method" as described in ERISA Section 4211(b).
2. Census data collected as of July 31, 2010.
3. All assumptions per the July 31, 2010 withdrawal liability report.
4. Market value of assets based on audited financial statements as of July 31, 2010.
5. Total plan contributions are as reported in the audited financial statements.
6. Historical contributions of previously withdrawn employers and employer for which this calculation was performed are as reported by the Fund Office.
7. We are aware of no other participating employers belonging to the same controlled group as the employer for which this calculation was completed.
8. We are unaware of any applicability of ERISA Section 4225 on this assessment and defer to the Fund Administrator and Legal Counsel to determine whether it applies.

## EXHIBIT Q

**Ohio Operating Engineers Pension Fund**  
**CALCULATION OF ALLOCABLE AMOUNT OF UNFUNDED VESTED BENEFITS**  
**For a Withdrawal in the Plan Year Ended July 31, 2017**

Employer  
Name:

Sofco Erectors, Inc.

Year Ended <sup>1</sup> <u>July 31</u>	Unamortized Balance of Withdrawal Liability Pools		Contributions During 5-Year Period Ended Prior to Date Pool Established		Liability Allocated: (5) divided by (4), times the sum of <u>(2) and (3)</u> <u>(6)</u>
	<u>Basic<sup>2</sup></u>	<u>Reallocated<sup>3</sup></u>	<u>Total Plan</u>	<u>Obligated Employer</u>	
(1)	(2)	(3)	(4)	(5)	
2003	\$91,288,572	\$0	\$178,834,875	\$291,244	\$148,669
2004	(10,869,184)	0	183,435,933	275,279	(16,311)
2005	54,864,009	0	184,525,945	211,259	62,812
2006	(76,019,502)	0	187,236,038	189,279	(76,849)
2007	18,444,748	0	192,258,544	180,029	17,271
2008	82,940,123	0	202,969,173	187,255	76,519
2009	232,055,591	0	210,884,752	161,099	177,272
2010	29,566,670	0	218,622,244	127,590	17,255
2011	127,603,629	0	230,778,340	95,158	52,615
2012	214,305,669	0	250,306,333	70,436	60,305
2013	7,764,623	0	269,018,918	46,278	1,336
2014	(129,537,937)	6,853	298,703,055	62,852	(27,255)
2015	261,224,360	0	331,169,312	94,102	74,227
2016	112,294,964	0	360,524,316	121,118	<u>37,725</u>
Allocable Amount of Unfunded Vested Benefits for Complete Withdrawal (Sum of Column 6)					\$605,591

<sup>1</sup> Years not shown have no withdrawal liability components.

<sup>2</sup> Original value of the changes in the unfunded vested benefits, written down 5% per year.

<sup>3</sup> Original value of non-assessable or non-collectible withdrawal liability, written down 5% per year.

<sup>4</sup> Total fund contributions for the Plan year listed and the four preceding years, excluding contributions from withdrawn significant employers who withdrew on or before the date the pool was established.

<sup>5</sup> Obligated employer contributions for the Plan year listed and the four preceding years, including contributions owed but not yet paid.

## EXHIBIT R

**Ohio Operating Engineers Pension Fund**  
**DEVELOPMENT OF CREDIT FOR PRIOR PARTIAL WITHDRAWALS**  
**For a Withdrawal in the Plan Year Ended July 31, 2017**

Credit for Prior Partial Withdrawal in Plan Year Ended July 31, 2011		
A: Sum of Employer's Share of Unamortized Pools for years prior to the partial withdrawal.....		\$ 212,111
B: Fraction determined under Section 4206(a)(2) of ERISA for the prior partial withdrawal.....		0.813497
C: Amount of withdrawal liability assessed to employer for the prior partial withdrawal.....		\$ 344,627
D: Amount of unfunded vested liability allocable to employer as if it had completely withdrawn as of the date of the prior partial withdrawal.....		\$ 423,637
E: Credit for prior partial withdrawal in Plan year ended July 31, 2011 [ A x B x C / (D x B)].....		\$ 172,551

Credit for Prior Partial Withdrawal in Plan Year Ended July 31, 2012		
F: Sum of Employer's Share of Unamortized Pools for years prior to the partial withdrawal.....		\$ 389,383
G: Fraction determined under Section 4206(a)(2) of ERISA for the prior partial withdrawal.....		0.648545
H: Amount of withdrawal liability assessed to employer for the prior partial withdrawal.....		\$ 111,358
I: Amount of unfunded vested liability allocable to employer as if it had completely withdrawn as of the date of the prior partial withdrawal.....		\$ 669,922
J: Credit for prior partial withdrawal in Plan year ended July 31, 2012 [ F x G x H / (I x G)].....		\$ 64,725

Credit for Prior Partial Withdrawal in Plan Year Ended July 31, 2013		
K: Sum of Employer's Share of Unamortized Pools for years prior to the partial withdrawal.....		\$ 406,638
L: Fraction determined under Section 4206(a)(2) of ERISA for the prior partial withdrawal.....		0.490268
M: Amount of withdrawal liability assessed to employer for the prior partial withdrawal.....		\$ -
N: Amount of unfunded vested liability allocable to employer as if it had completely withdrawn as of the date of the prior partial withdrawal.....		\$ 654,495
O: Credit for prior partial withdrawal in Plan year ended July 31, 2013 [ K x L x M / (N x L)].....		\$ -

P. Total credit for prior partial withdrawals [ E + J + O]		\$ 237,276
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*Note: Per ERISA Section 4206.10, the plan year in which the partial withdrawal occurred for purposes of the above calculations is deemed to be the first year of the 3-year testing period.*

## EXHIBIT S

## Ohio Operating Engineers Pension Fund

## DETERMINATION OF WITHDRAWAL LIABILITY

For a Withdrawal in the Plan Year Ending July 31, 2017

Employer Name: Sofco Erectors, Inc.

A.	Preliminary Allocable Amount of Unfunded Vested Benefits	\$605,591
B.	De Minimis Reduction Under ERISA Section 4209	
(1)	Lesser of 0.75% of Unfunded Vested Benefits or \$50,000	\$50,000
(2)	Reduction: \$100,000 + (B)(1) – (A) but not greater than (B)(1) nor less than zero	\$0
C.	Limitation in Accordance with ERISA Section 4225 (Sale of Assets)	N/A*
D.	Net Allocable Amount of Unfunded Vested Benefits for Complete Withdrawal	\$605,591
E.	Credit for Prior (July 31, 2011, 2012, and 2013) Partial Withdrawals	\$237,276
F.	Withdrawal Liability: (D) – (E), but not less than zero	\$368,315

\* We are unaware of any applicability of Section 4225 on this assessment and defer to the Fund Administrator and Legal Counsel to determine whether it applies

## EXHIBIT T

Ohio Operating Engineers Pension Fund  
 DETERMINATION OF PAYMENT SCHEDULE UNDER ERISA SECTION 4219  
 For a Withdrawal in the Plan Year Ended July 31, 2017

Employer Name: Sofco Erectors, Inc.

(1) Employer Base Units (hours) history:

Year Ended	<u>July 31</u>	<u>Hours</u>	<u>3-Year Average Hours</u>
2007	11,053.50	N/A	
2008	11,978.00	N/A	
2009	1,607.50	8,213.00	
2010	440.00	4,675.17	
2011	1,123.00	1,056.83	
2012	2,172.00	1,245.00	
2013	3,442.50	2,245.83	
2014	3,834.00	3,149.50	
2015	5,527.00	4,267.83	
2016	5,477.00	4,946.00	

(2) Average Base Units for highest 3 consecutive years during 10 years ended July 31, 2016	8,213.00
(3) Highest contribution rate during 10 years ended July 31, 2017	\$6.00
(4) Annual payment = (2) x (3) [rounded up to the nearest \$4]	\$49,280
(5) Quarterly payment = (4) / 4	\$12,320
(6) Number of Full Years of Payment	10
(7) Remaining Balance After 10 Years	\$2,721
(8) Number of Full Quarterly Payments in Year 11:	0
(9) Amount of Remaining Payment = (7) - (5) x (8)	\$2,721

EXHIBIT U

Ohio Operating Engineers Pension Fund

BASIS FOR DETERMINING WITHDRAWAL LIABILITY

For a Withdrawal in the Plan Year Ending July 31, 2017

1. Withdrawal liability computed using the "Presumptive Method" as described in ERISA Section 4211(b).
2. Census data collected as of July 31, 2016.
3. All assumptions per the July 31, 2016 withdrawal liability report.
4. Market value of assets based on audited financial statements as of July 31, 2016.
5. Total plan contributions are as reported in the audited financial statements.
6. Historical contributions of previously withdrawn employers and employer for which this calculation was performed are as reported by the Fund Office.
7. We are aware of no other participating employers belonging to the same controlled group as the employer for which this calculation was completed.



MY DIRECT DIAL IS: 513-873-2103  
 MY EMAIL ADDRESS IS: GARY.GREENBERG@JACKSONLEWIS.COM

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Suite 2300	HARTFORD, CT	MORRISTOWN, NJ	RAPID CITY, SD
Cincinnati, Ohio 45202	HONOLULU, HI*	NEW ORLEANS, LA	RICHMOND, VA
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	LOS ANGELES, CA	PHOENIX, AZ	ST. LOUIS, MO
	MADISON, WI	PITTSBURGH, PA	TAMPA, FL
	MEMPHIS, TN	PORTLAND, OR	WASHINGTON, DC REGION
	MIAMI, FL	PORTSMOUTH, NH	WHITE PLAINS, NY
	MILWAUKEE, WI	PROVIDENCE, RI	
	MINNEAPOLIS, MN		

\*through an affiliation with Jackson Lewis P.C., a Law Corporation

November 10, 2017

**EXHIBIT**

**B**

**VIA E-MAIL & U.S. MAIL**

Trustees, Ohio Operating Engineers Pension Fund  
 c/o Brian C. Barch, In-house Counsel  
 1180 Dublin Road  
 PO Box 12009  
 Columbus, OH 43212-0009

RE: Sofco Erectors, Inc. - Request for Review of Withdrawal Liability Assessment  
 dated August 31, 2017

To the Trustees:

This is the Request for Review by Sofco Erectors, Inc. ("Company") of the Ohio Operating Engineers Pension Fund ("Fund") assessment of withdrawal liability issued to the Company on August 31, 2017, pursuant to 29 U.S.C. § 1399(b)(2)(A).

## I. INTRODUCTION

The Company disputes the assessments in their entirety, for these reasons:

1. The Fund's assessment of complete withdrawal liability is contrary to 29 U.S.C. § 1383(b)(1), the special exception for construction industry employers and plans.<sup>1</sup> Because the Company has not continued or resumed performing work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously (as of April 30, 2017) required, there has been no complete withdrawal for which liability may be assessed.
2. The Fund's assessments of partial withdrawal liability are contrary to 29 U.S.C. § 1388(d)(1). During the years in question, the Company's obligation to contribute to the Plan were for "more than an insubstantial portion of its work in the craft and area jurisdiction of the collective bargaining agreement of the type of which contribution [were] required." Accordingly, there were no partial withdrawals for which liability may be assessed.

<sup>1</sup> The Company understands that there is no dispute that it is a construction industry employer, and the Fund's Plan is a construction industry plan, for purposes of 29 U.S.C. § 1383(b)(1), the construction industry exception.

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## II. BACKGROUND

These background facts are taken from the Affidavit of John Hesford (attached as Exhibit 1) and the Fund's Withdrawal Liability Assessment dated August 31, 2017.

The Company began operations on April 1, 2004, when it purchased the assets of its predecessor. The Company was a party to a series of collective bargaining agreements with the International Union of Operating Engineers, Local 18 ("Local 18") the last of which was effective from May 8, 2013 through April 30, 2017 ("CBA"). In accordance with these collective bargaining agreements, the Company made the required contributions for hours worked by employees within the craft and geographic jurisdiction of these agreements through April 30, 2017.

The Company terminated the CBA and its relationship with Local 18 effective April 30, 2017. Since then, all of the Company's on-site construction work has been performed by the following, and no others: (a) Company employees covered by its collective bargaining agreements with Iron Workers Local Nos. 44, 172 and 180; (b) crane operators covered by the CBA and its successors, and employed by crane leasing companies that have contracted with the Company to provide cranes and crane operators for these projects; and (c) licensed surveyors to establish building lines for precast installations (nothing more). All of the crane leasing companies that contract with the Company for work in Local 18's jurisdiction make the required payments to the Fund for the crane operators assigned to these projects.

In a letter dated August 31, 2017, the Fund assessed the Company for withdrawal liability as follows:

- Complete withdrawal liability for the Plan year ending July 31, 2017, in the amount of \$368,315 (\$605,591 less credit for partial withdrawals).
- Partial withdrawal liability for the Plan year ending July 31, 2011 in the amount of \$344,627, based on finding that the ratio of hours to maximum average contribution base units ("CBUs") during a 3 year testing cycle were as follows:
  - \* 2011 – 9%
  - \* 2010 – 4%
  - \* 2009 – 13%
- Partial withdrawal liability for the Plan year ending July 31, 2012 in the amount of \$111,358, based on finding that the ratio of hours to maximum average CBUs during a 3 year testing cycle were as follows:



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- \* 2012 – 18%
- \* 2011 – 9%
- \* 2010 – 4%

- Partial withdrawal liability for the Plan year ending July 31, 2013 in the amount of \$0 (after application of prior partial withdrawals), based on finding the ratio of hours to maximum average CBUs during a 3 year testing period were as follows:

- \* 2013 – 28%
- \* 2012 – 18%
- \* 2011 – 9%

The Fund's assessment letter does not explain why it used the statutory "70% decline" formula, which does not apply to construction industry employers/plans, to find partial withdrawal, nor why it did not apply the "insubstantial portion" provision in 29 U.S.C. § 1388(d)(1), which does apply. Moreover, the Fund's letter does not explain why the construction industry exception to complete withdrawal liability does not apply here, given that Company employees have not continued or resumed work within Local 18's jurisdiction since April 30, 2017.

In an email to Fund in-house counsel, Bryan Barch, dated October 23, 2017, Company counsel asked for "documentation in the Fund's possession that confirms, supports or explains the Fund's application of the [70% decline] formula to the Company. . . ." In the same email, Company counsel asked for "documents in the Fund's possession that confirms, supports or explains [the Fund's] findings and conclusion [that the Company continued or resumed work within the craft and geographic jurisdiction of Local 18]." The only response received to date was on November 1, 2017, from the Fund's outside counsel stating that he would have to review the file in more depth before responding on these issues. A copy of this email exchange is attached as Exhibit 2.

### III. THERE HAS BEEN NO COMPLETE WITHDRAWAL

- A. The CBA did not obligate the Company to make pension contributions for subcontractors; therefore, use of subcontractors for work formerly performed by the Company's Local 18 employees is not grounds for imposing withdrawal liability.

"[T]here is no withdrawal [as a result of subcontracting] unless the [construction] employer would have been obligated to make contributions for work performed by subcontractors under the terminated agreement. If contributions would not have been required, there would be no withdrawal, because the employer would not be continuing to perform work of the type for which contributions were previously required." PBGC Opinion Letter 85-5.



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Page 4

While the CBA, in Art. XIII, Sect. 117., states that “all subcontractors shall be subject to the terms and provisions of this Agreement as it relates Operating Engineers”, neither this nor any other provision of the CBA expressly imposes liability on the Company if the subcontractor fails to make the required payments. Accordingly, the construction industry exception applies, as the Company is not “continuing to perform work of the type for which contributions were previously required”.

- B. All of the subcontracted crane operators are covered by the CBA and its successor, and their employers make the required payments to the Fund; therefore, use of these subcontractors is not grounds for imposing withdrawal liability.

In enacting the Multi-Employer Pension Plan Act in 1980, Congress recognized that the withdrawal of a single construction employer from a construction industry plan does not reduce the contribution base if “other signatory employers take up the slack.” *H.C. Elliott, Inc. v. Carpenters Pension Trust Fund for Northern California*, 859 F. 2d 808, 812 (1988).

Here, other signatory employers have taken up the slack. This is the opposite of what occurred in *Oregon-Washington Carpenters-Employers Pension Trust Fund v. BQC Construction Inc. Hardware Service*, 485 F. Supp. 2d 1206 (2007), where the court imposed withdrawal because the construction employer subcontracted to **non-union** carpenters:

“Boden could have avoided withdrawal liability by subcontracting to a union employer who would make contributions to the Plan, thereby taking up the slack created by Boden. Because Boden did not subcontract to a union employer, the problem of unfunded vested benefits belongs to Boden, and Boden is liable.”

*Id* at p. 1216.

Because the Company subcontracts only to Local 18 employers, it is **not** liable for withdrawal.

**IV. THERE WAS NO PARTIAL WITHDRAWAL BECAUSE THE WORK  
CONTINUED DURING THE YEARS IN QUESTION FOR MORE THAN AN  
INSUBSTANTIAL PORTION OF THE COMPANY’S WORK IN THE UNION’S  
JURISDICTION**

29 U.S.C. § 1388(d)(1) states: “An employer to whom section 1383(b) of this title (relating to the building and construction industry) applies is liable for a partial withdrawal **only** if the employer’s obligation to contribute under the plan is continued for no more than an **insubstantial portion** of its work in the craft and area jurisdiction of the collective bargaining agreement of the type for which contributions are required.” (Emphasis added.)



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“Insubstantial portion” is not defined in the statute, nor has it been defined by the PBGC. In fact, the PBGC punted on the issue. PBGC Opinion Letter 95-2. Nor does there appear to be any case law defining the term for purposes of this provision.

However, “insubstantial portion” must mean a decline in contributions greater than the “70% decline” formula set forth in the provision applicable outside the construction industry; why else have a separate provision? And it must mean a portion that is close to zero. See Definition of “Insubstantial” in Merriam Webster dictionary: “not substantial: such as a: lacking substance or material nature b: lacking firmness or solidity: FLIMSY.”

The IRS definition of “insubstantial” for purposes of charitable contribution reporting is instructive:

“Token Exception – Insubstantial goods or services a charitable organization provides in exchange for a contribution do not have to be described in the acknowledgment [to the donor]. Goods and services are considered to be insubstantial if . . . 1. the fair market value of the benefits received does not exceed the lesser of 2 percent of the payment or \$106,\* or 2. the payment is at least \$53,\* the only items provided bear the organization’s name or logo . . . and the cost of these items is within the limit for ‘low-cost articles’, which is \$10.60.\*

\*The dollar amounts are for 2016. Guideline amounts are adjusted for inflation.”

IRS Publication 1771, “Charitable Contributions, Substantiation and Disclosure Requirements.”

The IRS defines “insubstantial” to mean 2% or less, which is consistent with the dictionary definition. The Company’s contribution ratios during the years in question were 13%, 4%, 9%, 18% and 28%, all above, and all but one well above, 2%. This was “more than insubstantial” during all of the 3 year measurement periods. Accordingly, there were no partial withdrawals for which liability may be assessed.

## V. CONCLUSION

For the reasons stated above, the Company requests that the Fund overturn and cancel the assessments of withdrawal liability in their entirety and return to the Company the payments already made.<sup>2</sup>

---

<sup>2</sup> The Company may supplement this Request for Review before the 90-day limitation period expires if the actuarial consultant retained by the Company advises that the Fund’s actuary over-stated what is owed due to erroneous calculations. Of course, such supplement would be moot if the assessments are overturned in their entirety.



November 10, 2017  
Page 6

Respectfully submitted,

Gary L. Greenberg  
Attorney for Sofco Erectors, Inc.

GLG/dlc  
Enclosures

Cc: (Via email and U.S. Mail)  
Daniel J. Clark  
Alan Kinzer  
Vorys, Sater, Seymour and Pease LLP  
Outside Counsel for the Fund

4840-5678-4468, v. 1

**IN THE MATTER OF:**

OHIO OPERATING ENGINEERS  
PENSION FUND

And

**AFFIDAVIT OF JOHN HESFORD**

## SOFCO ERECTORS, INC.

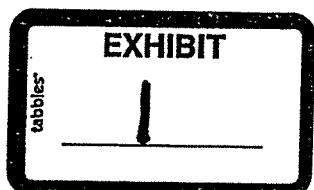
STATE OF OHIO )  
 ) ss.  
COUNTY OF HAMILTON )

1. My name is John Hesford. I am President of Sofco Erectors, Inc. (the "Company"), 10360 Wayne Ave, Cincinnati, Ohio 45215. The Company began operations on April 1, 2004, when it purchased the assets of its predecessor.

2. The Company was a party to a series of collective bargaining agreements with the International Union of Operating Engineers, Local 18 (“Local 18”), the last of which was effective from May 8, 2013 through April 30, 2017 (“CBA”).

3. The Company terminated the CBA and its relationship with Local 18 effective April 30, 2017; Local 18 has not disputed this.

4. At all times since termination of the CBA, all construction and related work performed on customers' premises by the Company ("on-site work") within the geographic jurisdiction of the CBA has been limited to a) employees of the Company who are covered by the Company's collective bargaining agreements with Iron Workers Local Nos. 44, 172 and 290, b)



crane operators covered by the CBA and its successor, and employed by crane leasing companies that have contracted with the Company to provide cranes and crane operators for these projects, and c) licensed surveyors to establish building lines for precast installations (nothing more).

5. At all times since termination of the CBA, the Company has employed no non-union employees or subcontractors to perform on-site work within the geographic jurisdiction of the CBA, other than the licensed surveyors referenced in paragraph 4 above.

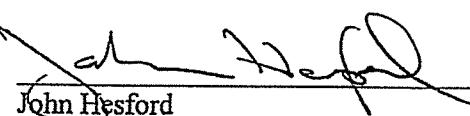
6. Attached as Exhibit A is a complete list of all of the crane leasing companies that the Company has contracted with since termination of the CBA for performance of on-site work within the geographic jurisdiction of the CBA.

7. Attached as Exhibit B – E are letters from the companies listed on Exhibit A that confirm each a) exclusively employs Local 18 operators to run cranes in Local 18's jurisdiction and b) pays into the appropriate fringe benefit funds in accordance with the Local 18 Collective Bargaining Agreement for each hour worked.

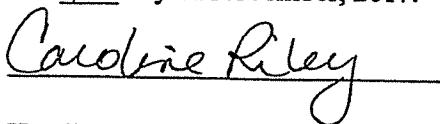
I swear and affirm that this Affidavit is true and accurate to the best of my knowledge, and is based on my personal knowledge.

Further Affiant sayeth not.

November 10, 2017

  
John Hesford

Subscribed and sworn to before me  
this 10 day of November, 2017.

  
Caroline Riley

Hamilton County, Ohio  
My Commission Expires: 11/1/2020  
Acting in Hamilton County, Ohio  
4844-1580-5779, v. 1



CAROLINE JEAN RILEY  
NOTARY PUBLIC  
IN AND FOR THE  
STATE OF OHIO  
MY COMMISSION EXPIRES  
NOVEMBER 1, 2020

**EXHIBIT A**

Following are all of the crane leasing companies contracted by Sofco Erectors, Inc.

(“Company”) since April 30, 2017, to provide cranes and crane operators for on-site work within the jurisdiction of the Company’s 2013-2017 collective bargaining agreement with IUOE Local 18.

Tri-State Crane & Rigging Service  
4838 Spring Grove Ave  
Cincinnati, OH 45232

Capital City Crane  
2299 Performance Way  
Columbus, OH 43207

Gould & Smith Crane Rental  
8205 Farwick Court  
Cincinnati, OH 45249

Maxim Crane Works  
840 Licking Pike  
Wilder, KY 41076

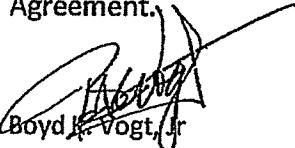


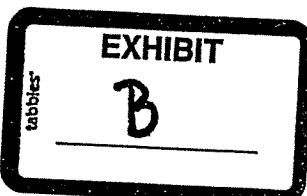
November 1, 2017

P.O. Box 308  
Newport, KY 41072  
phone: 859.441.7400  
fax: 859.442.6201  
[www.maximcrane.com](http://www.maximcrane.com)

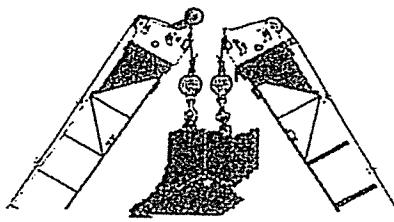
To Whom It May Concern,

Maxim Crane Works, L.P. employs Operating Engineers Local 18 operators to run cranes on all Sofco Erectors Inc. jobsites within the jurisdiction of Local 18. For each hour worked, we pay into the appropriate fringe benefit funds in accordance with the Local 18 Collective Bargaining Agreement.

  
Boyd L. Vogt, Jr.  
Regional Credit Manager  
Maxim Crane Works, L.P.



**Whatever it takes.**



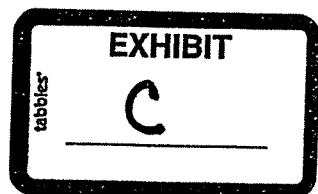
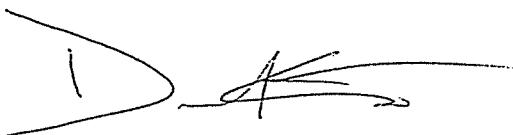
**Tri-State Crane  
& Rigging Service**

4838 Spring Grove Avenue  
Cincinnati, OH 45232  
Office: (513)-541-9992  
Fax: (513)-541-3395

November 2, 2017

To Whom It May Concern,

Tri-State Crane Rental exclusively employs Operating Engineers Local 18 operators to run cranes in the jurisdiction of Local 18. For each hour worked, we pay into the appropriate fringe benefit funds in accordance with the Local 18 Collective Bargaining Agreement.





October 18, 2017

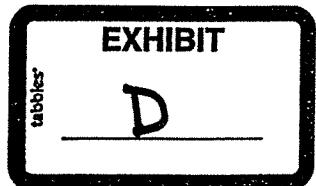
To Whom it May Concern,

Capital City Crane Company exclusively employs Operating Engineers Local 18 operators to run cranes in the jurisdiction of Local 18. For each hour worked, we pay into the appropriate fringe benefit funds in accordance with the Local 18 Collective Bargaining Agreement.

A handwritten signature in black ink, appearing to read "BG".

Brian Gibson

President & CEO





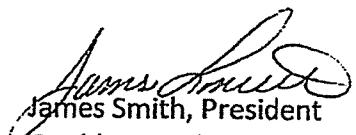
8205 FARWICK COURT ■ CINCINNATI, OHIO 45249 ■ 513-489-2050 ■ FAX 513-489-1873

**24 HOURS SERVICE**

November 1, 2017

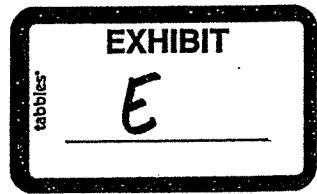
To Whom It May Concern,

Gould & Smith Crane Rental exclusively employs Operating Engineers Local 18 operators to run cranes in the jurisdiction of Local 18. For each hour worked, we pay into the appropriate fringe benefit funds in accordance with the Local 18 Collective Bargaining Agreement.



James Smith, President  
Gould & Smith Crane Rental, Inc.

CRANE RENTAL ■ TRUCKING ■ STORAGE



**Greenberg, Gary L. (Cincinnati)**

**From:** Clark, Daniel J. <[djclark@vorys.com](mailto:djclark@vorys.com)>  
**Sent:** Wednesday, November 01, 2017 5:27 PM  
**To:** Greenberg, Gary L. (Cincinnati); Kinzer, Allen S.  
**Cc:** Baron, Peggy M.  
**Subject:** RE: Sofco Erectors, Inc. - Ohio Operating Engineers Pension Fund Demand for Payment of Alleged Partial and Complete Withdrawal Liability dated August 31, 2017

Gary-

Yes, this file has been transferred to us. We are just getting our hands around it, so I do not have all the answers for you, but I did not want to ignore you either. I will address your points from your October 23, 2017 email to Bryan Barch in turn.

1. I believe that the August 29 correspondence included all of the information from the Fund's actuaries necessary for Libman Actuarial to review. Are there specific questions the Libman has or pieces of information that they need?
2. The Pension Fund has not adopted its own procedures for withdrawal liability matters. They operate according to the statute and applicable regulations.

3 and 4. I am going to have to review the file in more depth before responding to you on these issues.

Dan

**VORYS**  
Legal Counsel

**Daniel J. Clark**  
Partner  
Vorys, Sater, Seymour and Pease LLP  
52 East Gay Street | Columbus, Ohio  
43215  
Direct: 614.464.6436  
Fax: 614.719.4650  
Email: [djclark@vorys.com](mailto:djclark@vorys.com)  
[www.vorys.com](http://www.vorys.com)

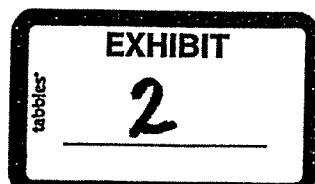
© 2017 VORYS, SATER, SEYMOUR AND PEASE LLP

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**From:** Greenberg, Gary L. (Cincinnati) [mailto:[Gary.Greenberg@JacksonLewis.com](mailto:Gary.Greenberg@JacksonLewis.com)]  
**Sent:** Tuesday, October 31, 2017 1:26 PM  
**To:** Clark, Daniel J.; Kinzer, Allen S.  
**Subject:** FW: Sofco Erectors, Inc. - Ohio Operating Engineers Pension Fund Demand for Payment of Alleged Partial and Complete Withdrawal Liability dated August 31, 2017

Gentlemen-

Ohio Operating Engineers Pension Fund in-house counsel Bryan Barch informed me yesterday that you now represent the Fund in this matter. On October 23, 2017, I sent the e-mail below to Mr. Barch. I have yet to receive a response.



Please let me know right away whether our actuarial consultant may communicate directly with the Fund's actuaries at Segal Consulting about their calculations and assumptions.

Also, let me know as soon as possible when I will receive a response to my substantive questions and information requests.

Gary Greenberg  
Attorney for Sofco Erectors, Inc.

**Gary L. Greenberg**

Attorney at Law

**Jackson Lewis P.C.**

425 Walnut Street  
Suite 2300

Cincinnati, OH 45202

Direct: (513) 873-2103 | Main: (513) 621-3440

[Gary.Greenberg@Jacksonlewis.com](mailto:Gary.Greenberg@Jacksonlewis.com) | [www.jacksonlewis.com](http://www.jacksonlewis.com)

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**From:** Greenberg, Gary L. (Cincinnati)

**Sent:** Monday, October 23, 2017 11:14 AM

**To:** Bryan Barch <[BryanBarch@ooefbp.com](mailto:BryanBarch@ooefbp.com)>

**Subject:** Sofco Erectors, Inc. - Ohio Operating Engineers Pension Fund Demand for Payment of Alleged Partial and Complete Withdrawal Liability dated August 31, 2017

Mr. Barch-

Thank you for sending me the Acceptance of Agreement by Sofco Erectors, Inc. ("Company") dated 10-3-11, the 2010-13 and 2013-17 collective bargaining agreements, the Pension Trust Agreement and Pension Plan. I have these follow-up questions:

-We have retained the Libman Actuarial Group of Cleveland, Ohio to consult with us on the calculations and assumptions. May our consultant communicate directly with the Fund's actuaries at Segal Consulting for this purpose?

-I note that Section 16 of the Pension Plan, which governs withdrawal liability, does not include any dispute resolution requirements. Accordingly, we assume that the Fund has no requirements for resolution of disputes over withdrawal liability assessments, aside from what is required by the applicable provisions of ERISA. If this assumption is incorrect, please let me know immediately and provide the Fund's requirements.

-The actuary's calculation letter dated August 29, 2017 correctly cites Section 4208(d)(1) as the provision that governs assessment of partial withdrawal liability in the construction industry; such liability may be assessed only when work continues for an "insubstantial portion" of the employer's work in the jurisdiction of the collective bargaining agreement. But the calculations of partial withdrawal liability are based entirely on application of the 70% decline provision in Section 4205(b)(1), which does not apply to the construction industry. Please provide any documentation in the Fund's possession that confirms, supports or explains the Fund's application of the 4205(b)(1) formula to the Company, including without limitation policies, resolutions and precedents.

As you know, in accordance with ERISA's construction industry exemption, complete withdrawal liability may only be assessed against the Company if it continued to perform or resumed the same work performed by bargaining unit employees within the craft and geographic jurisdiction of the collective bargaining agreement. Since expiration of the 2017 agreement, no Company employee has performed any such work, based on our understanding of the craft and geographic jurisdiction of the expired agreement. We assume that the Fund found and concluded that the Company continued or resumed such work following expiration. Please provide the specifics upon which this finding and conclusion was based, including what work the Fund believes has been performed by the Company within the jurisdiction of the agreement since expiration, and by whom. Also, please provide any documentation in the Fund's possession that confirms, supports or explains this finding and conclusion, including without limitation policies, resolutions and precedents.

The Company is making the installment payments in accordance with the Demand for Payment. In doing so, the Company is not admitting that the assessments are valid.

Thank you for your attention to this.

Gary Greenberg  
Attorney for Sofco Erectors, Inc.

**Gary L. Greenberg**

Attorney at Law

**Jackson Lewis P.C.**

425 Walnut Street  
Suite 2300

Cincinnati, OH 45202

Direct: (513) 873-2103 | Main: (513) 621-3440

[Gary.Greenberg@Jacksonlewis.com](mailto:Gary.Greenberg@Jacksonlewis.com) | [www.jacksonlewis.com](http://www.jacksonlewis.com)

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From the law offices of Vorys, Sater, Seymour and Pease LLP.

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MY DIRECT DIAL IS: 513-873-2103

MY EMAIL ADDRESS IS: GARY.GREENBERG@JACKSONLEWIS.COM

425 Walnut Street Suite 2300 Cincinnati, Ohio 45202 Tel 513 621-3440 Fax 513 621-4449 www.jacksonlewis.com	ALBANY, NY ALBUQUERQUE, NM ATLANTA, GA AUSTIN, TX BALTIMORE, MD BIRMINGHAM, AL BOSTON, MA CHICAGO, IL CINCINNATI, OH CLEVELAND, OH DALLAS, TX DAYTON, OH DENVER, CO DETROIT, MI GRAND RAPIDS, MI	GREENVILLE, SC HARTFORD, CT HONOLULU, HI* HOUSTON, TX INDIANAPOLIS, IN JACKSONVILLE, FL KANSAS CITY REGION LAS VEGAS, NV LONG ISLAND, NY LOS ANGELES, CA MADISON, WI MEMPHIS, TN MIAMI, FL MILWAUKEE, WI MINNEAPOLIS, MN	MONMOUTH COUNTY, NJ MORRISTOWN, NJ NEW ORLEANS, LA NEW YORK, NY NORFOLK, VA OMAHA, NE ORANGE COUNTY, CA ORLANDO, FL PHILADELPHIA, PA PHOENIX, AZ PITTSBURGH, PA PORTLAND, OR PORTSMOUTH, NH PROVIDENCE, RI	RALEIGH, NC RAPID CITY, SD RICHMOND, VA SACRAMENTO, CA SALT LAKE CITY, UT SAN DIEGO, CA SAN FRANCISCO, CA SAN JUAN, PR SEATTLE, WA ST. LOUIS, MO TAMPA, FL WASHINGTON, DC REGION WHITE PLAINS, NY
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\*through an affiliation with Jackson Lewis P.C., a Law Corporation

November 29, 2017

### VIA E-MAIL & U.S. MAIL

Trustees, Ohio Operating Engineers Pension Fund  
c/o Brian C. Barch, In-house Counsel  
1180 Dublin Road  
PO Box 12009  
Columbus, OH 43212-0009

RE: Sofco Erectors, Inc. – Supplemental Request for Review of Withdrawal Liability  
Assessment dated August 31, 2017

To the Trustees:

This is a Supplement to the Request for Review submitted by Sofco Erectors, Inc. (“Company”) on November 10, 2017. In its Request for Review dated November 10, 2017, the Company disputed the Fund’s assessments in their entirety, based on 29 U.S.C. § 1383(b)(1) and 29 U.S.C. § 1388(d)(1). In this Supplement, the Company submits grounds for reducing the assessments if they are not overturned in their entirety.

#### **I. THE FUND’S ACTUARY ERRONEOUSLY INCLUDED AMOUNTS FROM BEFORE APRIL 1, 2004 IN CALCULATING THE ASSESSMENT**

The Company began operations on April 1, 2004, when it purchased the assets of its predecessor. Affidavit of John Hesford, attached as Exhibit 1 to Company’s Request for Review dated November 10, 2017. This was an arms-length transaction. Neither of the Company’s owners, John Hesford and Dan Powell, had any ownership in the predecessor Company or familial relationship with its owners. The previous owner of these assets was Southern Ohio Fabricators, Inc.; a list of its owners at time of purchase is attached as Exhibit 1.

Southern Ohio Fabricators, Inc. and its owners ceased operations entirely, and therefore had no withdrawal liability. 29 U.S.C. § 1383(b)(1). Accordingly, the Company began operations on April 1, 2004 with a clean slate as to the Fund.

**EXHIBIT**

**C**

tabler



November 29, 2017  
Page 2

Despite the Company not operating before April 1, 2004 and the predecessor's exemption from withdrawal liability, the Fund's actuary included amounts from before that date in calculating the assessments. See Exhibits B, C, D, G, J, M, and Q, attached to the Segal Consulting letter dated August 29, 2017. When the liability allocation for Plan Year ending July 31, 2003 is excluded, and assuming withdrawal liability (which the Company disputes), the assessments would be as follows:

	<u>Assessed</u>	<u>Revised</u>
Partial – YE 7-31-11	\$344,627	\$ 48,907
Partial – YE 7-31-12	\$111,358	\$160,404
Partial – YE 7-31-13	\$0	\$0
Complete – YE 7-31-17	\$368,315	\$301,681
Total:	<hr/> \$824,300	<hr/> \$510,992

See summary prepared by Company's actuarial consultant, attached as Exhibit 2.

The removal of contributions preceding April 1, 2004 would likely further reduce the liability, but the Company's actuarial consultant did not have sufficient data to calculate the additional reduction. The Company requests that the Fund recalculate the Company's withdrawal liability by excluding pre-April 1, 2004 contributions made by Southern Ohio Fabricators, Inc., in addition to excluding (as above) the liability allocation for the Plan Year ending July 31, 2003.

## II. THE FUND HAS NOT PROVIDED REQUESTED INFORMATION THAT MIGHT ALSO AFFECT THE CALCULATIONS

On November 15, 2017, counsel for the Company e-mailed the following requests for information to counsel for the Fund (attached as Exhibit 3):

- The withdrawal liability reports for 7/31/2008, 7/31/2009, and 7/31/2016, as referred to in the Exhibits E, K, and U attached to the Segal Consulting letter dated 8/29/2017.
- Why were the partial withdrawal calculations based on the withdrawal liability reports for 3 years before the partial withdrawal assessment?
- What interest rate was used to calculate the quarterly installments in each of the three assessments, and what is the basis for those rates?
- What is the payment start date for each of the three assessments?

None of the requested information has been provided. Accordingly, the Company reserves the right to raise issues related to the requested information in arbitration.

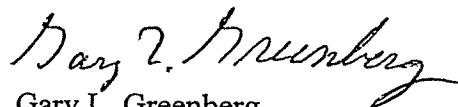
**jackson|lewis.**

November 29, 2017  
Page 3

### III. CONCLUSION

For the reasons set forth in the Company's Request for Review dated November 10, 2017, the partial and complete withdrawal liability assessments should be overturned in their entirety. If the assessments are not overturned, then they should be recalculated and reduced by excluding the liability allocation for the Plan Year ending July 31, 2003 and all contributions made before April 1, 2004, as the Company did not operate before that date and is not a successor to the liability allocations and contributions of Southern Ohio Fabricators, Inc., which ceased operations on that date.

Respectfully submitted,

  
Gary L. Greenberg  
Attorney for Sofco Erectors, Inc.

GLG/dlc  
Enclosures

Cc: (Via email and U.S. Mail)  
Daniel J. Clark  
Alan Kinzer  
Vorys, Sater, Seymour and Pease LLP  
Outside Counsel for the Fund

4831-0309-6919, v. 1

LIST OF SHAREHOLDERS OF  
SOUTHERN OHIO FABRICATORS, INC.

Names of Shareholders

Patricia Kling Ballman

Elizabeth Kling Mayotte

Christina Perry (Daughter of John Emerson Kling)

Josephine Kling Trippe

Susan Kling Worthington

Elizabeth Kling Mayotte, Susan Kling Worthington and  
Margaret S. Kling, Co-Trustees, of the J.J. Kling Irrevocable  
Trust FBO Christina Perry  
With Life Estate for Margaret S. Kling

Elizabeth Kling Mayotte, Susan Kling Worthington and  
Margaret S. Kling, Co-Trustees, of the J.J. Kling Irrevocable  
Trust FBO Josephine Kling Trippe, Patricia Kling Ballman,  
Elizabeth Kling Mayotte and Susan Kling Worthington  
With Life Estate for Margaret S. Kling

Jerry T. Nickerson

Jerry T. Nickerson, Trustee, FBO Laurie A. Nickerson

Laurie A. Nickerson

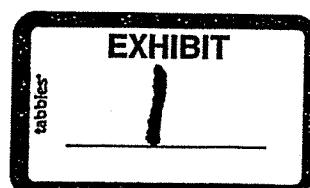
Jennifer L. Nickerson

Anne Nickerson

Timothy J. Gates

Stephen R. Sundin

James W. Ludwig



**Ohio Operating Engineers Pension Fund**  
**Withdrawal Liability Calculations**  
**Sofco Erectors, Inc.**

**DEMANDED WITHDRAWAL LIABILITY AMOUNTS**

	Partial Withdrawal Liability 7/31/2011	Partial Withdrawal Liability 7/31/2012	Partial Withdrawal Liability 7/31/2013	Total Withdrawal Liability 7/31/2017	Totals
Original Calculation <sup>1</sup>	\$344,627	\$111,358	\$0	\$368,315	\$824,300
Revised Calculation <sup>2</sup>	\$48,907	\$160,404	\$0	\$301,681	\$510,992
Change	<u>(\$295,720)</u>	<u>\$49,046</u>	<u>\$0</u>	<u>(\$66,634)</u>	<u>(\$313,308)</u>

<sup>1</sup> Calculations per Ohio Operating Engineers Fringe Benefit Programs Demand for Payment dated August 31, 2017.

<sup>2</sup> Revised Calculations reflect removal of Plan Year Ended July 31, 2003 from Liability. The removal of contributions preceding April 1, 2004 would also change the results, but we lack sufficient data to calculate the amount of such reduction.



**Greenberg, Gary L. (Cincinnati)**

---

**From:** Crawford, Denice L. (Cincinnati) on behalf of Mills, James A. (Cincinnati)  
**Sent:** Wednesday, November 15, 2017 1:54 PM  
**To:** djclark@vorys.com; askinzer@vorys.com  
**Cc:** Greenberg, Gary L. (Cincinnati); Rosenthal, Daniel G. (Cincinnati)  
**Subject:** Sofco Erectors, Inc.

Dear Mr. Clark and Mr. Kinzer,

My colleague, Gary Greenberg, is currently unavailable but asked to me to forward this request from the Company's actuarial consultant for a response from the Fund's actuary. The Company requests the following information:

- The withdrawal liability reports for 7/31/2008, 7/31/2009, and 7/31/2016, as referred to in the Exhibits E, K and U attached to the Segal Consulting letter dated 8/29/2017.
- Why were the partial withdrawal calculations based on the withdrawal liability reports for 3 years before the partial withdrawal assessment?
- What interest rate was used to calculate the quarterly installments in each of the three assessments, and what is the basis for those rates?
- What is the payment start date for each of the three assessments?

Jim Mills

**James A. Mills**

Attorney at Law

Jackson Lewis P.C.

425 Walnut Street

Suite 2300

Cincinnati, OH 45202

Direct: (513) 873-2113 | Main: (513) 621-3440

[James.Mills@Jacksonlewis.com](mailto:James.Mills@Jacksonlewis.com) | [www.jacksonlewis.com](http://www.jacksonlewis.com)

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